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February 16, 2022

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VIA E-FILING

The Honorable Andrew L. Carter, Jr.
United States District Judge
Thurgood Marshall United States Courthouse
Southern District of New York
40 Foley Square, Room 435
New York, NY 10007

MEMO ENDORSED

**Re: Joint Request for Stay
Building Service 32BJ Health Fund, et al. v. Shamrock of New England, Inc.
Case No. 1:21-cv-3562 (S.D.N.Y.) (ALC) (BCM)**

Judge Carter:

This firm represents Defendant Shamrock of New England, Inc. ("Shamrock") in the above-referenced action.

Shamrock and Plaintiffs Building Service 32BJ Health Fund, Building Services 32BJ Legal Services Fund, and Building Services 32BJ Thomas Shortman Training, Safety and Scholarship Fund ("Plaintiffs") (collectively, Shamrock and Plaintiffs are the "Parties") jointly file this letter-motion requesting a stay of proceedings for thirty (30) days to allow for the Parties to engage in serious settlement discussions. In support of this letter-motion, the Parties state as follows:

1. **Procedural History**

The Complaint in this matter was filed on April 22, 2021 (Dkt. 1). The Clerk entered a Certificate of Default dated July 6, 2021 (Dkt. 11). Plaintiffs filed a Motion for Default Judgment dated July 12, 2021 (Dkt. 14). On August 31, 2021, this Court entered an Order to Show Cause ordering Shamrock to show cause as to why default judgment should not be entered by September 7, 2021 (Dkt. 23). By Letter dated December 24, 2021, Plaintiffs further requested that a default judgment be entered against Shamrock. The Court has not yet entered default judgment against Shamrock.



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2. Reasons for the Request for Stay

The Complaint seeks payment of alleged outstanding contributions to Plaintiffs, which are three health and welfare funds governed by the Employee Retirement Income Security Act, 29 U.S.C. § 1101, *et. seq.* and the Labor-Management Relations Act of 1947, 29 U.S.C. § 185, *et. seq.* The Complaint also seeks an order directing Shamrock to provide records and documents for an audit of contributions owed to Plaintiffs.

After the Complaint was filed, Shamrock paid the amounts claimed by Plaintiffs on or around June 4, 2021. Plaintiffs contend that Shamrock has refused to provide them with necessary documents for an audit.

For reasons that can be further described in affidavits or a Motion to Set Aside Default, if such a Motion is necessary, Shamrock representatives believed that they had resolved the Complaint by paying the amounts claimed by the Plaintiffs. In addition, Shamrock has experienced delays in mailing of documents from its registered agent.

Shamrock retained this firm on or around February 15, 2021. The undersigned Counsel for Shamrock spoke by telephone with Ira Sturm, Counsel for Plaintiffs, on February 16, 2021 to discuss possible resolution of this matter. Counsel for the Parties believe that this matter can be resolved within thirty (30) days without further court intervention. If the settlement discussions cease without resolution, the Parties will contact the Court immediately.

3. Request for Stay

For all of the foregoing reasons, the Parties jointly request a thirty (30) day stay of proceedings to attempt to resolve this matter. This is the first request for a stay in this matter and this request is being jointly submitted by the Parties.

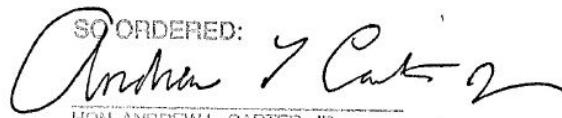
Very truly yours,

Handwritten signature of Andrew M. MacDonald in blue ink, followed by a handwritten signature of 'NYC' in blue ink.
Andrew M. MacDonald¹

cc: Hon. Andrew L. Carter, Jr. (ALCarterNYSDChambers@nysd.uscourts.gov)
Ira A. Sturm (isturm@rsgllp.com)
Andrew MacDonald (amacdonald@foxrothschild.com)

¹ This letter is being filed by my New York colleague, Neil A. Capobianco.

The joint request for a stay of proceedings for 30 (thirty) days to allow the parties to pursue settlement is hereby **GRANTED**. The parties are **ORDERED** to file a joint status report no later than **March 21, 2022**. Failure to do so will risk the stay being lifted.

SO ORDERED:


HON. ANDREW L. CARTER, JR.
UNITED STATES DISTRICT JUDGE

Dated: Feb. 17, 2022